

Commodity Credit Corporation, USDA

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§ 1423.3 Bonding requirements for net worth.

A bond furnished by a warehouseman under this subpart must meet the following requirements:

(a) Such bond shall be executed by a surety which:

(1) Has been approved by the U.S. Treasury Department, and

(2) Maintains an officer or representative authorized to accept service of legal process in the State where the warehouse is located.

(b) Such bond shall be on Form CCC-33, "Warehouseman's Bond", except that a bond furnished under State law (statutory bond) or under operational rules of nongovernmental supervisory agencies may be accepted in an equivalent amount as a substitute for a bond running directly to CCC if:

(1) CCC determines that such bond provides adequate protection to CCC.

(2) It has been executed by a surety specified in paragraph (a) of this section or has a blanket rider and endorsement executed by such a surety with the liability of the surety under such rider or endorsement being the same as that of the surety under the original bond, and

(3) It is noncancellable for not less than one hundred twenty (120) days or includes a rider providing for not less than one hundred twenty (120) days' notice to CCC before cancellation. Excess coverage on a substitute bond for one warehouse will not be accepted or applied by CCC against insufficient bond coverage on other warehouses.

(c) Cash and negotiable securities offered by a warehouseman may be accepted by CCC in lieu of the equivalent amount of required bond coverage. Any such cash or negotiable securities accepted by CCC will be returned to the warehouseman when the period for which coverage was required has ended and there appears to CCC to be no liability under the storage contract or agreement.

(d) A legal liability insurance policy may be accepted by CCC in lieu of the required amount of bond coverage provided such policy contains a clause or rider making the policy payable to CCC. CCC determines that it affords protection equivalent to a bond, and the Office of the General Counsel, U.S.

Department of Agriculture, approves it for legal sufficiency.

(e) An irrevocable letter of credit may be accepted by CCC in lieu of the required amount of bond coverage provided that the issuing bank is a commercial bank insured by the Federal Deposit Insurance Corporation. Such standby letter of credit shall be on Form CCC-33A, "Irrevocable Letter of Credit", or on such other form as may be specifically approved by the Director, KCCO, or the Director's designee.

(Pub. L. 80-89, 62 Stat. 1070, as amended (15 U.S.C. 714b))

[44 FR 67081, Nov. 23, 1979, as amended by Amdt. 3, 50 FR 42513, Oct. 21, 1985]

§ 1423.4 Examination of warehouses.

Except as otherwise provided in this subpart a warehouse must be examined by a person designated by CCC before it may be approved by CCC for the storage or handling of commodities and periodically thereafter to determine its compliance with CCC's standards and requirements.

§ 1423.5 Exceptions.

Notwithstanding any other provisions of this subpart:

(a) The financial, bond, and original and periodic warehouse examination provisions of this subpart do not apply to any warehouseman approved or applying for approval for the storage and handling of commodities under CCC programs if the warehouse is licensed under the U.S. Warehouse Act for such commodities, but a special examination shall be made of such warehouse whenever CCC determines such action is necessary.

(b) A warehouseman who has a net worth of at least \$25,000 but who fails, or whose warehouse fails, to meet one or more of the other standards of this subpart may be approved if:

(1) CCC determines that the warehouse services are needed and the warehouse storage and handling conditions provide satisfactory protection for the commodity, and

(2) The warehouseman furnishes such additional bond coverage (or cash or acceptable negotiable securities or

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legal liability insurance policy) as may be prescribed by CCC.

[44 FR 67081, Nov. 23, 1979, as amended by Amdt. 3, 50 FR 42513, Oct. 21, 1985]

§ 1423.6 Approval of warehouse, requests for reconsideration.

(a) CCC will approve a warehouse if it determines that the warehouse meets the standards set forth in this subpart. CCC will send a notice of approval to the warehouseman. Approval under this subpart, however, does not relieve the warehouseman of the responsibility for performing the warehouseman's obligations under any agreement with CCC or any other agency of the United States.

(b) Except as otherwise provided in this subpart:

(1) CCC will not approve the warehouse if CCC determines that the warehouse does not meet the standards set forth in this subpart; and

(2) CCC will send any notice of rejection of approval to the warehouseman. The notice will state the cause(s) for such action. Unless the warehouseman or any officials or supervisory employees of the warehouseman are suspended or debarred, CCC will approve the warehouse if the warehouseman establishes that the causes for CCC's rejection of approval have been remedied.

(c) If rejection of approval by CCC is due to the warehouseman's failure to meet the standards set forth:

(1) In § 1423.2, other than the standard set forth in paragraph (c)(2) thereof, the warehouseman may, at any time after receiving notice of such action, request reconsideration of the action and present to the Director, KCCO, in writing, information in support of such request. The Director shall consider such information in making a determination and notify the warehouseman in writing of such determination. The warehouseman may, if dissatisfied with the Director's determination, obtain a review of the determination and an informal hearing thereon by filing an appeal with the Deputy Administrator, Commodity Operations, Farm Service Agency (hereinafter referred to as "FSA"). The time of filing appeals, forms for requesting an appeal, nature of the informal hearing, determination and reopening of the hearing shall be

as prescribed in the FSA regulations governing appeals, 7 CFR part 780. When appealing under such regulations, the warehouseman shall be considered as a "participant"; and

(2) In § 1423.2(c)(2), the warehouseman's administrative appeal rights with respect to suspension and debarment shall be in accordance with applicable CCC regulations. After expiration of a period of suspension or debarment, a warehouseman may, at any time, apply for approval under this subpart.

[Amdt. 3, 50 FR 42513, Oct. 21, 1985]

§ 1423.7 Exemption from requirements.

(a) If warehousing services in any area cannot be secured under the provisions of this subpart, and no reasonable and economical alternative is available for securing such services, the President or Executive Vice President, CCC, may exempt, in writing, applicants in such area from one or more of the standards of this subpart and may establish such other standards as are considered necessary to safeguard satisfactorily the interests of CCC.

(b) Warehousemen who are currently under contract with CCC will be required to meet the terms and conditions of these regulations at the time of renewal of their contract.

§ 1423.8 OMB control numbers assigned pursuant to Paperwork Reduction Act.

The information collection requirements contained in this regulation (7 CFR part 1423, Subpart—Standards for Approval for Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey, and Oils) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Numbers 0560–0052, 0560–0044, 0560–0064, 0560–0065, 0560–0034, and 0560–0041.

[Amdt. 3, 50 FR 42513, Oct. 21, 1985]

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